

Recommendation:

That the Clerk/Planning-2022-42 report, dated June 21, 2022 regarding the 2022 Municipal election and restricted acts (lame duck) be received for information.

Overview:

With nomination day approaching on August 19, 2022, staff wanted to provide an information report to Council regarding Section 275 of the Municipal Act which speaks to restricted acts. This Section and the associated acts are colloquially called “Lame Duck”. There are two periods where lame duck restrictions may apply. The first is the period from Nomination Day, August 19, 2022 until Election Day, October 24, 2022. The second period is from Election Day, October 24, 2022 until the end of the term of Council, November 14, 2022.

During these two periods lame duck restrictions can occur if:

1. If the new council will have the same number of members as the outgoing council, the new council will include less than three-quarters of the members of the outgoing council.
2. If the new council will have more members than the outgoing council, the new council will include less than three-quarters of the members of the outgoing council or, if the new council will include at least three-quarters of the members of the outgoing council, three-quarters of the members of the outgoing council will not constitute, at a minimum, a majority of the members of the new council.
3. If the new council will have fewer members than the outgoing council, less than three-quarters of the members of the new council will have been members of the outgoing council or, if at least three-quarters of the members of the new council will have been members of the outgoing council, three-quarters of the members of the new council will not constitute, at a minimum, a majority of the members of the outgoing council. 2001, c. 25, s. 275 (1).

As we know the number of Council seats is not changing in this election, subsections 2 and 3 listed above will not apply to Douro-Dummer. Subsection 1 can be applied to Douro-Dummer and following Nomination Day and Election Day, the Acting Clerk will be required to make a determination as to whether to implement the provisions of the Act and restrict the actions that Council can take.

To determine if Council is a lame duck, a review will take place following the close of Nomination Day, August 19, 2022, and if it is found that 75% of the current council will not be returning, the restricted acts will be imposed in accordance with the Act. The same review will take place after Election Day. As we have a 5-person Council, and 75% of 5 is 3.75, so if it is determined that the new Council will include less than $\frac{3}{4}$ of the members of the outgoing Council we will be in lame duck.

During the lame duck period the following acts are restricted:

- 1) Appointment and removal from office any officer of the municipality;
- 2) The hiring or dismissal of any employee of the municipality;
- 3) The disposition of any real or personal property exceeding \$50,000 in value at the time of disposal;
- 4) Making any expenditure or incurring a liability exceeding \$50,000

It should be noted that restrictions 3) and 4) do not apply if the disposition of the liability or the purchase was included in the approved budget adopted by Council prior to Nomination Day. As well all of the above noted restrictions do not apply where authority has been delegated to a person or body prior to Nomination Day. As Council has previously approved a new Delegated Authority By-law No. 2022-14, which covers many of the situations listed above, there should be little disruption to municipal services.

Conclusion:

As there have been comments from members of Council in the media regarding their intention not to run in the 2022 Municipal election, it can be determined with the current information, that the new Council will include less than 75% of the outgoing Council. Based on the current information available to staff, Lame Duck restrictions would be in place for both the time periods referenced earlier in the report and will stretch from August 19, 2022 until the November 14, 2022 but staff will review and make determinations for each time period as they arise and will provide notice.

Financial Impact: None as a result of this report.

Strategic Plan Applicability: To ensure and enable an effective and efficient municipal administration.

Report Approval Details

Document Title:	2022 Municipal Election Restricted Acts - Lame Duck.docx
Attachments:	- 2022-14 - Delegation of Powers and Duties.pdf
Final Approval Date:	Jun 16, 2022

This report and all of its attachments were approved and signed as outlined below:

Elana Arthurs